

REMARKS

The Office Action dated January 31, 2005 has been fully considered by the Applicant.

Claims 1 and 7 are currently amended. Claims 2-4, 6, 8-9 have been previously presented.

Claim 5 has been canceled.

A check and a Request for Three Month Extension of Time is enclosed herewith.

The Examiner has supplied applicant with the preferred specification guideline. Applicant respectfully directs the Examiner to the Preliminary Amendment filed along with the application wherein the specification was amended to include the proper layout.

The specification has been amended to correct the informalities appearing on Page 7, as graciously pointed out by Examiner Salce.

Claim 5 has been rejected under 35 USC 112, first paragraph as failing to comply with the enablement requirement. Claim 5 has been currently canceled.

Claims 1-3, and 5-6 have been rejected under 35 USC 102(e) as being clearly anticipated by United States Patent No. 5,600,378 to Wasilewski. Claim 1 has been currently amended, and, therefore, Applicant respectfully requests reconsideration of the rejection.

Claim 1 has been amended to include a data processing system for data received by a broadcast data receiver being provided for receiving multiple streams of digital data being transmitted from a remote location. The data in each stream includes a series of packets of data and are provided with associated codes to indicate the type of data. The selected packets of data are combined and selected by the broadcast data receiver to form a single stream of data. The single stream of data is then further processed to generate data therefrom. Each stream of data includes a transport packet of packet identification codes for the packets of data in the stream. When a

transport stream identification code is added to each of the received streams of digital data, the transport stream identification code for each stream identifies and differentiates each of the streams of data received by the broadcast data receiver. The '378 patent to Wasilewski does not teach a data processing system for data received by a broadcast data receiver being provided for receiving multiple streams of digital data, wherein each stream includes a series of packets of data and that for each data stream there is provided one or more packet identification code and, in addition, a transport stream identification code (TSID) generated for each of the received streams of data. These features are not taught or suggested in the '378 Wasilewski patent.

In the present disclosure, Applicant solves the problem of how to allow the retrieval of data packets from all of the multiple transport streams of data, with the data packets being required to generate a conventional channel following a user selection. This is done by adding a transport stream identification code to each of the received streams of data. In the '378 Wasilewski patent, the problem is how to generate a composite, additional channel from packets of data, that is, to provide at least one additional channel selection to the user. There is no indication in the '378 Wasilewski patent that transport stream identification codes should be added to each of the received streams of data, as is disclosed in Applicant's invention. Indeed, as Wasilewski refers to the provision of a composite channel from channels from only one network provider. The reader must assume therefore that the transport stream identification codes would only be allocated to the streams which provide the channels for the particular network, as there would be no purpose to have transport stream identification codes allocated to streams which are received for other network channels as these cannot be used. Therefore, Applicant believes that currently independent claim 1, with dependent claims 2-4, and 6, is novel of the '378 Wasilewski patent and respectfully requests reconsideration of the rejection.

In addition, the '378 Wasilewski patent discloses a system whereby a composite and additional channel can be formed, such as a channel which shows all Western theme shows, with the shows being taken from one or more channels. This channel can only be formed from data provided from a single network (Col. 6, lines 11-13). It is, therefore, the case that the data, which is used to form the composite channel, can only be selected from a group of channels provided by that network. The aim of the '378 Wasilewski patent is to provide an additional, composite, channel which is available for selection by a user of the apparatus and to provide the additional channel in a manner such that the same has the "appearance" of a normal channel to the user. The user need not perform any additional steps when selecting that channel. Therefore, Wasilewski has no interest in generating a single stream of data for processing from all received streams of data, as in Applicant's invention.

In Applicant's invention, the generation of the transport stream identification code allows the clear and unambiguous identification of data packets which are to be selected and joined together to form a single stream of data, as each data packet is identified with respect to other data packets in the transport stream in which the same are located. The particular data stream is identified by the transport stream identification code with respect to the other streams of data which are being received and from which the selected packets of data need to be identified, selected and joined together. These features clearly are not found in the '378 Wasilewski patent. Therefore reconsideration of the rejection is respectfully requested.

Claims 4 and 7-9 have been rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 5,600,378 to Wasilewski in view of United States Patent No. 6,351,474 to Robinett et al.

Claim 4 depends upon currently amended independent claim 1. Applicant believes that claim 4 is novel over the cited references for the reasons stated herein.

Claim 7 has been currently amended to include a method for the generation of a single stream of data for subsequent processing, comprising the steps of receiving a number of transport streams of data, selecting packets of data in accordance with user criteria, and multiplexing the selected packets of data into a single stream of data. When the transport stream identification code is allocated to each of the received transport streams of data and the selection of a data packet is required, the selection is controlled with reference to the appropriate transport stream identification code for the particular transport stream of data in which the data packet to be selected is located. Once the appropriate transport stream is identified, the required data packet is selected therefrom with reference to packet identification codes for that transport stream of data and the steps are repeated for each of data packets which are required to form the single stream of data. The packets of data may be located in any of the received transport streams of data. Clearly, the cited references do not teach or suggest Applicant's currently amended method claim 7. Therefore, reconsideration of the rejection is respectfully requested.

Applicant's claim 7 has been currently amended to identify that for each data stream there is provided one or more packet identification code and, in addition, a transport stream identification code is generated for each of the received streams of data. Applicant sincerely believes that currently amended method claim 7 with dependent claims 8 and 9 is novel over the cited references.

Applicant believes that it is improper to combine references to achieve the invention under consideration unless there is some incentive or suggestion in the references to do so.

The Court of Appeals for the Federal Circuit has repeatedly held that under Section 103, teachings from various references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F2d 1572, 221 USPQ 929 (CAFC 1984).

Stated another way:

It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps...The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 18 USPQ2d 1885 (CAFC 1991).

In the present invention, there is no suggestion in the references to combine the teachings of United States Patent No. 5,600,378 to Wasilewski with United State Patent No. 6,351,474 to Robinett et al. The Examiner is required to follow the law as set forth by the Federal Circuit. In summary, the combination of patents to achieve the claims of the present invention is untenable.

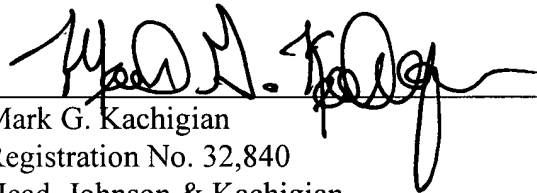
Applicant sincerely believes that currently amended method claim 7 with dependent claims 8 and 9 is novel over the cited references.

Further, Applicant's apparatus as used to process the data in a single stream is relatively simple and cheap to manufacture because the data packets can be accurately located. This accurate location of the data packets allows the formation of the single stream of data for processing to be achieved in a practical, efficient and relatively error free manner. It is believed that for these and the above-stated reasons Applicant's invention is novel over the cited references.

It is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is requested. If any fees or charges are associated herewith, please credit deposit Account No. 08-1500.

HEAD, JOHNSON & KACHIGIAN

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Kachigian', written over a horizontal line.

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